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- (b) clay treated;
- (c) solvent refined; or
- (d) hydro-treated.

7 ~~40~~. An agricultural spray oil as claimed in Claim ~~27~~, further including an emulsifying surfactant.

By ~~8~~ ~~41~~. An agricultural spray oil as claimed in Claim ~~40~~, wherein the surfactant is a nonionic surfactant and is added at about 0.5 wt% to 20.0 wt% total of the oil.

~~10~~ ~~42~~. An agricultural spray oil as claimed in Claim ~~35~~, having an oil portion that is a C₁₅ to C₃₅ light paraffinic petroleum-derived oil or C₁₅ to C₃₅ light naphthenic-derived oil, and an emulsifying surfactant.--

REMARKS

In the above identified Office Action the Examiner has indicated that claims 22-27, 31 and 33-37 have been rejected and claims 28-30 are non-elected.

Applicant does not understand how the Examiner can state that claims 28-30 are non-elected since it had elected claims 22-37 for prosecution as represented by Group I of the

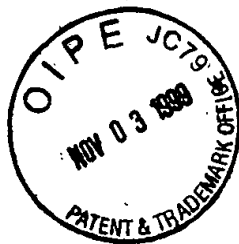
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set of claims in the previous restriction requirement of July 19, 1999. Accordingly, Applicant will treat claims 28-30 as elected and still maintained in the prosecution.

Claims 22 and 33 have been rejected under 35 U.S.C. §102(b) as anticipated by the patent to Ratledge. Applicant has amended claims 22-33 so that they now recite an overbased sulphonate and as such, define over Ratledge, there being no teaching or suggestion in Ratledge to use such a component in the agricultural spray oil of the subject invention. Claims 22-27, 31, and 33-37 have been rejected as obvious over the patent to Paget and the patent to Ratledge. The Examiner states that Paget teaches an agricultural spray oil having added thereto a benzoxazole, a surface action agent and petroleum oil. The Examiner has utilized the teachings of Ratledge to add the surface active agent of a sulphonate. The Examiner has stated that Ratledge discloses sulphonates including metal (overbased) sulphonates of instant claims are surface active agents used to enhance the pesticidal activity of agricultural spray oils. Applicant disagrees with this interpretation of Ratledge noting that there is no disclosure of an overbased sulphonate which are distinctly different from the metal sulphonates disclosed in Ratledge in column 3, line 61-62. As such, there is no suggestion or teaching in the cited art of the use of overbased sulphonates. Therefore, as amended, the claims now recite over the combination of Paget and Ratledge.

In addition, Applicant notes that the two references are primarily directed to such different subject matters as to be not combinable by a skilled person. Paget is concerned with an agent for the control of plant pathogenic organisms, whereas Ratledge is concerned with a

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herbicide carrier oil composition. Such subject matters are unrelated and would not be considered by a skilled person to be an obvious combination.

Further, Paget concerns himself with the control of plant pathogenic organisms. The treatment of such organisms is accomplished with specialized triazolobenzoxazole and triazolobenzothiazole compounds. These compounds are highly specific for use in killing fungal and bacterial organism. There is no suggestion that such compounds can be used to reduce the phytotoxicity of agricultural spray oil compositions. Thus, there is no suggestion in Paget to combine its teachings with that of Ratledge for enhancing pesticidal activity of agricultural spray oils. As such, one skilled in the art would not be motivated to combine the two teachings.

With the above amendments and remarks, this application is considered ready for allowance. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to call the undersigned at the below-listed number.

Respectfully submitted,

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By 

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